

Inspector General

United States
Department of Defense



American Recovery and Reinvestment - Ineffective
Controls Over the Contractor's Performance and
Reporting for Modernization of the Navy Operational
Support Center in
Charlotte, North Carolina

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 05 JUN 2012		2. REPORT TYPE		3. DATES COVERED 00-00-2012 to 00-00-2012	
4. TITLE AND SUBTITLE American Recovery and Reinvestment Act - Ineffective Controls Over the Contractor's Performance and Reporting for Modernization of the Navy Operational Support Center in Charlotte, North Carolina				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Department of Defense Office of Inspector General, 4800 Mark Center Drive, Alexandria, VA, 22350-1500				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 43	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

Additional Copies

To obtain additional copies of this report, visit the Web site of the Department of Defense Inspector General at <http://www.dodig.mil/audit/reports> or contact the Secondary Reports Distribution Unit at (703) 604-8937 (DSN 664-8937) or fax (571) 372-7469.

Suggestions for Audits

To suggest or request audits, contact the Office of the Deputy Inspector General for Auditing by phone (703) 604-9142 (DSN 664-9142), by fax (703) 604-8932, or by mail:

Department of Defense Office of Inspector General
Office of the Deputy Inspector General for Auditing
ATTN: Audit Suggestions/13F25-04
4800 Mark Center Drive
Alexandria, VA 22350-1500



Acronyms and Abbreviations

CY	Calendar Year
FAR	Federal Acquisition Regulation
FTE	Full-Time Equivalent
IDIQ	Indefinite-Delivery, Indefinite-Quantity
MAC	Multiple Award Contract
MIDLANT	Mid-Atlantic
NAVFAC	Naval Facilities Engineering Command
NOSC	Naval Operational Support Center
OMB	Office of Management and Budget
ORCA	Online Representations and Certifications Application
PWD	Public Works Department
QA	Quality Assurance
QC	Quality Control



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

June 5, 2012

MEMORANDUM FOR NAVAL INSPECTOR GENERAL

SUBJECT: American Recovery and Reinvestment Act – Ineffective Controls Over the Contractor's Performance and Reporting for Modernization of the Navy Operational Support Center in Charlotte, North Carolina
(Report No. DODIG-2012-095)

We are providing this report for review and comment. We considered management comments on a draft of this report when preparing the final report. Naval Facilities Engineering Command Mid-Atlantic officials did not have effective controls over the contractor's performance and reporting of the Whole Navy Operational Support Center modernization project, valued at \$2.3 million. As a result, the Navy Operational Support Center had deterioration, such as roof leaks at various locations, deteriorating asphalt in the parking lot, and renovated walls that could not support newly installed doors.

DoD Directive 7650.3 requires that recommendations be resolved promptly. The responses from the Commanding Officer, Naval Facilities Engineering Command Mid-Atlantic on Recommendations 1, 2, 4, 5, and 6 were responsive and no further comments are required. We request that the Commanding Officer provide additional comments on Recommendation 3 by July 5, 2012.

If possible, please send a portable document format (.pdf) file containing your comments to audros@dodig.mil. Copies of the management comments must contain the actual signature of the authorizing official. We are unable to accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-8866 (DSN 664-8866).

A handwritten signature in blue ink, reading "Alice F. Carey", is positioned above the printed name.

Alice F. Carey
Assistant Inspector General
Readiness, Operations, and Support



Results in Brief: American Recovery and Reinvestment Act – Ineffective Controls Over the Contractor’s Performance and Reporting for Modernization of the Navy Operational Support Center in Charlotte, North Carolina

What We Did

Our objective was to evaluate the effectiveness of Government controls over the contractor’s performance and reporting on selected American Recovery and Reinvestment Act (Recovery Act) projects, including contracts awarded to qualified small businesses. We reviewed the Whole Navy Operational Support Center (NOSC) modernization project in Charlotte, North Carolina valued at \$2.3 million.

What We Found

Although Naval Facilities Engineering Command (NAVFAC) Mid-Atlantic (MIDLANT) officials effectively validated the contractor’s self-certification as a small business status, they did not have effective controls over the contractor’s performance and reporting for NOSC modernization project. Specifically, NAVFAC MIDLANT officials did not prepare a quality assurance plan because they considered the contractor’s quality control plan as sufficient. Without a plan, NAVFAC MIDLANT officials did not have procedures in place to provide adequate oversight of the contractor’s performance of the newly modernized NOSC building, which showed deterioration in the recently renovated areas, such as roof leaks, deteriorating asphalt, and renovated walls that could not support the newly installed doors. NAVFAC MIDLANT officials did not conduct a market research analysis because they considered the market research for delivery order 03 unnecessary and instead, used the market research from delivery order 01.* Without conducting a market research, NAVFAC officials could not ensure that they selected

the best contractor to conduct quality assurance surveillance.

NAVFAC officials did not ensure the contractor accurately reported the number of jobs funded for the project because they considered the contractor-reported data valid. As a result, the contractor underreported the jobs for the NOSC modernization project by 9.4 full-time equivalents (FTEs) based on labor hours reported in the daily report and by 1.3 FTEs based on labor hours reported in the certified payroll report. By underreporting the number of FTEs, NAVFAC MIDLANT officials adversely affected the quality of data reported to the public in Recovery.gov and the Recovery Act’s goal—to preserve and create jobs.

What We Recommend

We recommend the Commanding Officer, Naval Facilities Engineering Command Mid-Atlantic to:

- repair all deteriorations and deficiencies in the recently renovated NOSC using contract warranties and oversee the repairs being performed,
- prepare a quality assurance plan for future construction projects,
- validate contractor-reported data to detect and correct significant reporting errors, and
- determine whether the contracting officer acted within the scope of duties and take administrative actions where necessary.

Management Comments and Our Response

Management comments were responsive for five of six recommendations. We request that the Commanding Officer, NAVFAC MIDLANT, provide additional comments to Recommendation 3. Please see the recommendations table on the back of this page.

*Naval Facilities Engineering Command Mid-Atlantic awarded Delivery Order 01 in September 2009 from indefinite-delivery, indefinite-quantity multiple award contract N00178-05-D-4487 and its scope included potential sites at all NAVFAC MIDLANT installations, including North Carolina. However, the quality assurance services were not part of the contract’s scope.

Recommendation Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Commanding Officer, Naval Facilities Engineering Command Mid-Atlantic	3	1, 2, 4, 5, and 6

Please provide comments by July 5, 2012.

Table of Contents

Introduction	1
Objective	1
Recovery Act Background	1
Naval Facilities Engineering Command Needs Better Guidance on Contracting Officer Responsibilities	2
Finding. Naval Facilities Engineering Command Controls Over the Contractor's Performance and Reporting Needed Improvement	4
Quality Assurance Plan Guidance	4
Naval Facilities Engineering Command Mid-Atlantic Officials Validated Small Business Certification	5
Quality Assurance Plan Not Prepared to Ensure Adequate Oversight	5
Naval Facilities Engineering Command Mid-Atlantic Officials Considered a Quality Assurance Plan Unnecessary	7
Navy Operational Support Center Showed Deterioration	8
Naval Facilities Engineering Command Outsourced Quality Assurance Surveillance but Did Not Conduct Market Research	10
Different Market Analysis Used for Justification	10
Suitable Approach Not Used to Award Quality Assurance Surveillance	11
Recovery Act Reporting Requirements	11
Data Quality Reviews of Contractor's Reporting Needed Improvement	12
Naval Facilities Engineering Command Mid-Atlantic Incorrectly Considered Contractor's Data Valid	13
Public Not Accurately Informed of Job Reporting	14
Management Comments on the Finding and Our Response	14
Recommendations, Management Comments, and Our Response	15
Appendices	
A. Scope and Methodology	19
Use of Computer-Processed Data	19
Use of Technical Assistance	20
Prior Coverage	20
B. Recovery Act Criteria and Guidance	21
C. Navy Operational Support Center Contract Submittals Received and Approved	23
D. Recovery Act Reporting	25

Table of Contents (cont.)

Management Comments

Department of the Navy Comments

27

Introduction

Objective

Our objective was to determine whether DoD and its Components are implementing Public Law 111-5, “The American Recovery and Reinvestment Act of 2009,” (Recovery Act), February 17, 2009. Specifically, we evaluated the effectiveness of Government controls over the contractor’s performance and reporting on selected projects, including contracts awarded to qualified small businesses. See Appendix A for a discussion of our scope and methodology as well as prior audit coverage.

Recovery Act Background

The President signed the Recovery Act into law on February 17, 2009.

The purposes of this Act include the following:

- (1) To preserve and create jobs and promote economic recovery.
- (2) To assist those most impacted by the recession.
- (3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.
- (4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
- (5) To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

The heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes specified ... including commencing expenditures and activities as quickly as possible consistent with prudent management.

Office of Management and Budget, Federal Acquisition Regulation, and DoD Recovery Act Guidance

Criteria for planning and implementing the Recovery Act changed during 2009 through 2011 as the Office of Management and Budget (OMB) issued 11 memoranda and 1 bulletin to address the implementation of the Recovery Act. In addition, the Federal Acquisition Regulation (FAR), DoD, and its Components issued additional implementing guidance. See Appendix B for a list of Federal Government-level Recovery Act criteria and guidance. OMB, FAR, and DoD guidance related to contractor reporting are also discussed in the finding.

DoD Recovery Act Program Plans

DoD received approximately \$7.2 billion¹ in Recovery Act funds for projects supporting the Recovery Act's purpose. In March 2009, DoD released expenditure plans for the Recovery Act, listing DoD projects that received Recovery Act funds. The Department of the Navy received approximately \$1.2 billion in Recovery Act funds for Operations and Maintenance; Military Construction; and Research, Development, Test, and Evaluation. Table 1 shows funding allocated for each appropriation.

**Table 1. Department of the Navy
Program-Specific Recovery Act Appropriations**

Appropriation	Amount (in millions)
Operations and Maintenance	\$ 815.9
Military Construction	280.0
Research, Development, Test and Evaluation	75.0
Total	\$1,170.9

Whole Navy Operational Support Center Modernization

The Navy Operational Support Center (NOSC) in Charlotte, North Carolina, was constructed in 1988. The NOSC provides operational, training, and administrative support for the Navy Reserve to provide mission-capable units and individuals to the Navy's active duty component during peacetime and war. In addition to accommodating full-time command and administrative staff, the facilities accommodate reservists during drill weekends. The NOSC includes space for administrative support, medical facilities, unit areas, a drill hall, and a vehicle maintenance facility.

Of the \$1.2 billion appropriated, the Department of the Navy allocated approximately \$2.3 million (Operations and Maintenance) to repair and modernize the NOSC. Naval Facilities Engineering Command (NAVFAC) Mid-Atlantic (MIDLANT) awarded the NOSC modernization project on October 22, 2009, with a project start date of January 2010. The work included replacing the roof and modifying various interior and exterior features. MV Momentum, the prime contractor acting in an 8(a) (Disadvantage Business Enterprise Program) capacity, completed work under this contract in March 2011.

NAVFAC Needs Better Guidance on Contracting Officer Responsibilities

DoD Instruction 5010.40, "Managers' Internal Control Program (MICP) Procedures," July 29, 2010, requires DoD organizations to implement a comprehensive system of

¹DoD originally received \$7.42 billion; however, Public Law 111-226, Title III, "Rescissions," August 10, 2010, rescinded \$260.5 million on August 10, 2010. The \$7.2 billion does not include \$4.6 billion for the U.S. Army Corps of Engineers.

internal controls that ensures programs are operating as intended and to evaluate the effectiveness of the controls. We identified internal control weaknesses for NAVFAC MIDLANT regarding the contractor's performance and reporting. Specifically, NAVFAC MIDLANT officials did not develop and implement a quality assurance (QA) plan because they considered the contractor's quality control (QC) plan as sufficient and did not conduct a market research because they considered it unnecessary. Also, NAVFAC MIDLANT officials did not review the contractor's reports to identify significant reporting errors because they considered the contractor-reported data valid. We will provide a copy of the report to the senior official in charge of internal controls at NAVFAC MIDLANT.

Finding. NAVFAC Controls Over the Contractor's Performance and Reporting Needed Improvement

Although NAVFAC MIDLANT officials effectively validated the contractor's self-certification as a small business status, they did not have effective controls over the contractor's performance and reporting for the NOSC modernization project. Specifically, NAVFAC MIDLANT officials did not:

- prepare a QA plan to ensure adequate oversight of the contractor's compliance with the contract verification and acceptance specifications and Government approvals on 232 contract submittals because they considered the contractor's QC plan as sufficient. Without a QA plan, NAVFAC MIDLANT officials did not have procedures in place to provide adequate oversight of the newly modernized NOSC building, which showed deterioration in the recently renovated areas (such as roof leaks, deteriorating asphalt, and renovated walls that could not support newly installed doors);
- conduct a market research analysis for the QA services awarded under delivery order 03,² as required by the FAR Part 10 "Market Research," because they considered it unnecessary. As a result, NAVFAC officials could not ensure that they selected the best contractor to conduct QA surveillance; and
- conduct adequate data quality reviews of data reported by the contractor because they considered the contractor-reported data valid. As a result, the contractor underreported the jobs for the NOSC modernization project by either 9.4 full-time equivalent (FTE) jobs based on labor hours reported in the daily report or by 1.3 FTEs based on labor hours reported in the certified payment report.

QA Plan Guidance

Subpart 401(a) of FAR Part 46, "Government Contract Quality Assurance," states "quality assurance surveillance plans should be prepared in conjunction with the preparation of the statement of work." The plans should specify all work requiring surveillance and the method of surveillance." According to subpart 401(e) of FAR Part 46, "Government inspection shall be performed by or under the direction or supervision of Government personnel."

According to OMB Memorandum M-09-15, "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009," April 3, 2009, agencies must use QA plans to identify contractor's performance deficiencies. Additionally, NAVFAC

²Using Recovery Act funds, NAVFAC MIDLANT awarded delivery order 03 in June 2010 from an indefinite-delivery, indefinite-quantity multiple award contract N00178-05-D-4487 to perform Government QA services and its scope specifically included the NOSC modernization project.

Business Management System section B-1.5.5.1, “Design Bid Build Construction Quality Management,” March 4, 2008, states that the construction manager must prepare a QA plan for contracts greater than \$1 million. Those QA plans must include oversight procedures for Government submittal approvals, surveillance submittals, and involvement in verification and acceptance testing and inspection.

NAVFAC MIDLANT Officials Validated Small Business Certification

NAVFAC MIDLANT officials validated the contractor’s self-certification as a small business. Specifically, NAVFAC MIDLANT officials validated the contractor’s self-certification by obtaining and reviewing a copy of the contractor’s Online Representations and Certifications Application (ORCA) certification. Small businesses self-certified using the Small Business Administration, Central Contractor Registration, and ORCA systems. According to the ORCA record, MV Momentum is registered as a small business for the North American Industry Classification System code 236220, “Commercial and Institutional Building Construction,” which was used for the contract.

QA Plan Not Prepared to Ensure Adequate Oversight

NAVFAC MIDLANT officials did not prepare a QA plan to ensure adequate oversight of the contractor’s compliance with the contract verification and acceptance specifications and Government approvals on 232 contract submittals. Specifically, NAVFAC MIDLANT officials outsourced the Government QA surveillance³ functions; however, the construction manager did not prepare a QA plan to supervise the contractor who performed Government QA duties. Based on subpart 401(a) of FAR Part 46, NAVFAC officials should prepare a QA plan to monitor the surveillance of work. A QA plan provides the construction manager better direction to ensure the contractor’s compliance with contract requirements. A QA plan would have required the construction manager to validate the verification and acceptance of contract specifications and the approval of contract submittals. Also, the construction manager did not document his supervision of the work performed by the QA manager. The construction manager stated that he supervised the QA manager by visiting the NOSC modernization project site quarterly and by communicating continuously through e-mails.

Inadequate Verification and Acceptance of Contract Specifications

NAVFAC MIDLANT officials did not provide adequate oversight to ensure the contractor met the contract verification and acceptance specifications for the roof and the parking lot pavement. The contract specifications required the contractor to complete a roof drain test in the presence of the contracting officer before Government acceptance. The roof drain test would have ensured that the roof was installed with watertight

³Subpart 7.5 of FAR Part 7, “Acquisition Planning,” states that contractors providing inspection services are generally not considered to be performing inherently governmental functions. Given the nature of the NOSC project, a contractor could perform QA inspections.

integrity. Although NAVFAC MIDLANT officials noted problems with the roof in June 2010, they could not provide documentation to demonstrate that the contractor conducted the required roof drain test.

For example, the QC daily reports⁴ identified the following discrepancies pertaining to the roof modernization:

- June 14, 2010 – The QA manager found roof leaks as a result of improper roof installation.
- June 16, 2010 – The QA manager stated he had concerns with the subcontractor's⁵ overambitious schedule and the ability to adapt to changing weather conditions.
- June 21, 2010 – The QA manager found leakage through the roof.
- June 22, 2010 - The general contractor temporarily stopped the roof work while performance was evaluated. During this stoppage, the general contractor evaluated the subcontractor's roof work and performance.
- June 30, 2010 – The subcontractor continued repairing the roof.
- August 20, 2010 - The subcontractor encountered serious problems with leaks because of inclement weather, such as extensive rain.

The QA manager identified these discrepancies, and the general contractor was notified and provided oversight to address these nonconformances. On March 7, 2011, the QA daily reports indicated that after periods of heavy rain there was no evidence of roof leaks or damaged ceiling tiles that resulted from roof leaks. Therefore, on April 15, 2011, the QA manager and the NAVFAC Facilities Management Director accepted the completed construction work. About 4 months after NAVFAC accepted the completed work, we observed damaged ceiling tiles that resulted from roof leaks. Additionally, building tenants stated that the roof leaked during heavy rain.

NAVFAC MIDLANT officials also did not validate that areas of the parking lot were installed according to contract specifications. According to the contract specifications, asphalt compaction must meet the specified requirements. The asphalt density test that the contractor performed on January 14, 2011, indicated the utility parking lot did not meet the specified compaction percentage in four areas. NAVFAC Public Works Department (PWD) officials at Naval Air Station Oceana, Virginia, did not ensure the contractor corrected the failed test areas of the parking lot as required by the contract specifications. The construction manager would have benefited from a QA plan that

⁴The QC daily reports included a section where the QA manager made comments pertaining to the contractor's work.

⁵The prime contractor hired a subcontractor to perform the roof modernization.

included procedures to ensure contract specifications were met during each site visit and methods to effectively and efficiently supervise the QA manager.

Contract Submittals Not Received and Approved

NAVFAC MIDLANT officials did not receive 188 of the 232 contract submittals. Also, NAVFAC MIDLANT officials did not approve 160 of the 232 submittals. According to the contract specifications, the contractor was required to complete each submittal in

<p><i>NAVFAC MIDLANT officials did not approve 160 of the 232 submittals.</i></p>

sufficient detail to allow NAVFAC officials to readily determine compliance with contract requirements. Also, the contract specifications required the contractor to prepare and maintain the submittal register, to include the dates when submittals were delivered and completed. Further, the contract specifications required NAVFAC MIDLANT officials to update the submittal register showing the dates of submittal reviews and approval of those contract submittals. The submittal register required NAVFAC MIDLANT officials to approve 232 contract submittals. The contractor delivered 44 and NAVFAC approved 72 of the 232 contract submittals. When asked, NAVFAC MIDLANT officials could not explain why they approved more submittals than the contractor submitted. Appendix C provides a summary of the NOSC contract submittals that NAVFAC MIDLANT received and approved.

NAVFAC MIDLANT Officials Considered a QA Plan Unnecessary

NAVFAC MIDLANT PWD Facilities Engineering Acquisition Division officials at Naval Air Station Oceana, Virginia, considered the contractor's QC plan as sufficient. According to the contract, the contractor must provide a QC plan that includes proposed methods and responsibilities for accomplishing QC activities. On January 20, 2010, the contractor performing the NOSC modernization prepared a QC plan to make sure quality materials were used and installed in accordance with the project and manufacturer's specifications. The QC plan included procedures for:

- quality management methods,
- project QA,
- submittals,
- three phases of control,
- testing,
- completing rework items,
- documentation,
- closeout items,
- quality plan approvals, and
- training.

Although the QC plan included a QA section, the QA section did not include procedures on how the Government would supervise, monitor, or oversee the contractor's work.

A PWD Facilities Engineering Acquisition Division official at Naval Air Station Oceana, Virginia, stated that his office had not prepared a QA plan since 2004, adding that the NAVFAC MIDLANT Capital Improvements Business Line was preparing to issue guidance to all of the field offices regarding the deletion of the requirement to prepare a QA plan. Although NAVFAC is preparing to issue new or additional guidance, this guidance should not conflict with FAR requirements relating to preparing a QA plan. Instead, officials should follow the QA plan requirements outlined in the subpart 401(a) of FAR Part 46. NAVFAC MIDLANT officials should prepare QA plans that contain specific procedures on how the Government will monitor the contractor's progress and determine the frequency, timing, and guidelines for site visits.

NOSC Showed Deterioration

The newly modernized NOSC showed deterioration in areas recently renovated and there was a risk that additional deteriorations might occur. Specifically, the newly renovated areas experienced the following problems:

- leaks in various locations,
- deteriorating asphalt in various areas of the parking lot, and
- renovated walls that could not support newly installed doors.

Building tenants explained that during periods of heavy rain, water leaks were visible, as shown in Figures 1 and 2. Deficiencies might lead to other major problems, such as mold and mildew, if not corrected.

**Figure 1. Residue From Roof Leaks
(NOSC Office)**



Source: DoD Office of Inspector General

**Figure 2. Residue From Roof Leaks
(NOSC Office)**



Source: DoD Office of Inspector General

Building tenants also stated that asphalt on the utility parking lot started to deteriorate during vehicle usage. Tenants stated that the asphalt broke apart when the Marines' truck wheels turned sideways (as shown in Figure 3), and the asphalt sank when forklifts remained parked for extended periods of time (as shown in Figures 4 and 5). The tenants also stated that this deficiency would lead to future problems with moving the trucks and properly operating the forklifts.

**Figure 3. Asphalt Beginning to Deteriorate
(NOSC Exterior Parking Lot)**



Source: DoD Office of Inspector General

**Figure 4. Vehicle Parked
(NOSC Exterior Parking Lot)**



Source: DoD Office of Inspector General

**Figure 5. Asphalt After a Vehicle Has Been Parked
(NOSC Exterior Parking Lot)**



Source: DoD Office of Inspector General

NAVFAC Outsourced QA Surveillance but Did Not Conduct Market Research

NAVFAC MIDLANT officials did not conduct a market research analysis for the QA services awarded under delivery order 03 as required. Specifically, FAR part 10, “Market Research,” requires:

- agencies to conduct market research appropriate to the circumstances; before awarding a task or delivery order under an indefinite-delivery, indefinite-quantity (IDIQ) multiple award contract (MAC) for a noncommercial item in excess of the simplified acquisition threshold;⁶
- the contracting officer to conduct new market research analysis if prior market research is older than 18 months (from the time of award) or if the prior market research is no longer current, accurate, and relevant;
- agencies to obtain information specific to the items being acquired and should include whether the Government’s needs can be met by items of a type customarily available in the commercial marketplace; and
- agency managers to document the results of market research in a manner appropriate to the size and complexity of the project.

NAVFAC MIDLANT officials outsourced the Government QA surveillance functions for the NOSC project and awarded a contract valued at approximately \$157,000. As part of this outsourcing, NAVFAC MIDLANT’s contracting officer awarded delivery order 03 from a Seaport Enhanced IDIQ MAC to provide QA surveillance and facilitate the completion of this Recovery Act project. NAVFAC MIDLANT officials stated that this outsourcing occurred because there was no practical way to fulfill the QA responsibilities through in-house staff since the NOSC modernization project was in Charlotte, North Carolina, and their field office is located in Naval Air Station Oceana, Virginia. Nonetheless, NAVFAC MIDLANT did not conduct relevant market research analysis before awarding delivery order 03.

Different Market Analysis Used for Justification

The contracting officer stated that they did not conduct market research before awarding delivery order 03 because market research was not necessary. Specifically, NAVFAC officials considered delivery order 03 market research a logical follow-on to delivery order 01. Therefore, NAVFAC MIDLANT officials used the market research analysis from delivery order 01, instead of conducting a market research analysis specifically for delivery order 03. NAVFAC MIDLANT competed delivery order 01 and received proposals from five Seaport Enhanced MAC contractors. NAVFAC MIDLANT officials awarded delivery order 01 from an IDIQ MAC on September 18, 2009. Further,

⁶According to FAR subpart 2.101 “Simplified Acquisition Threshold” the simplified acquisition threshold is \$150,000.

NAVFAC MIDLANT awarded delivery order 01 to the contractor that provided the best overall value to the Government based on their technical and price proposals. According to a NAVFAC official,

the requirements of delivery order 03 were well within the scope of delivery order 01 and could have been issued as a modification to delivery order 01. However, due to ARRA [American Recovery and Reinvestment Act] guidelines delivery order 01 could not be modified to include ARRA funding as a modification. As a result, a new task order had to be issued even though this was within the scope of our competitively awarded delivery order 01.

Delivery order 01 provided program and engineering support to assist the overall management of a capital improvement program. Although delivery order 03 did in fact fall under the requirements of delivery order 01, the market research analysis conducted for delivery order 01 did not consider whether the Government's needs could be met by items available in the commercial marketplace and management did not document the research analysis results as required by the FAR. The Commander, NAVFAC MIDLANT, should consider appropriate action needed to verify that an adequate market research analysis is conducted and documentation of the results is maintained.

Suitable Approach Not Used to Award QA Surveillance

NAVFAC MIDLANT officials could not ensure that they used the most suitable approach to acquire QA services under delivery order 03. The FAR requires agency managers to conduct market research analyses before awarding a delivery order under an IDIQ MAC. A market research analysis helps managers determine the most suitable approach for acquiring, distributing, and supporting supplies and services. Without conducting a market research, NAVFAC officials could not ensure that they selected the best contractor to conduct QA surveillance.

Recovery Act Reporting Requirements

Section 1512 of the Recovery Act requires recipients⁷ (contractors) to report on the use of Recovery Act funds. Contractors of awards under section 1512 of the Recovery Act must report on a quarterly basis on the first day following the end of the quarter. The Recovery Act requires contractors to report the total number of jobs funded each quarter on www.federalreporting.gov and posted on www.recovery.gov for accountability and transparency, so the public will know how, when, and where their tax dollars are spent. Federal agencies are required to review the quality of data submitted by the contractor in response to the reporting requirements. See Appendix D for a detailed discussion of the Recovery Act reporting guidance.

⁷Prime contractors are non-Federal entities that receive Recovery Act funding through Federal awards. The terms "prime contractor" and "recipient" are interchangeable. For Federal contracts subject to reporting under FAR clause 52.204-11, "American Recovery and Reinvestment Act—Reporting Requirements," these terms translate to "federal contractor" (for example, prime contractor).

Data Quality Reviews of Contractor's Reporting Needed Improvement

NAVFAC MIDLANT officials did not conduct adequate data quality reviews of data reported by the contractor. Specifically, NAVFAC MIDLANT officials did not ensure

The contractor underreported jobs funded for the NOSC project in each quarterly report.

the contractor accurately reported the number of jobs funded for the NOSC modernization project. According to OMB Memorandum M-09-21, "Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009," June 22, 2009 and

OMB Memorandum M-10-08, "Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates," December 18, 2009, Federal agencies must perform data quality reviews to identify significant errors⁸ and ensure accuracy for Recovery Act-funded jobs.⁹ As part of DoD efforts to ensure contracting personnel performed reviews of contractor's reports to identify significant errors, the Director, Defense Procurement and Acquisition Policy issued a memorandum on December 16, 2009, requiring DoD contracting officers to review and verify the accuracy of key data elements within contractor's reports, including the total number of jobs reported. Accurate job reporting allows the public to understand the impact of Recovery Act funding on creating and preserving jobs. The contractor accurately reported the total amount of recovery funds received and provided a description of the project activities performed each quarter. However, the contractor underreported jobs funded for the NOSC modernization project in each quarterly report submitted to www.federalreporting.gov.

For the reporting period beginning October 1, 2009, and ending March 31, 2011, the NOSC contractor submitted six quarterly reports containing data reported under section 1512 of the Recovery Act on www.federalreporting.gov. For the reporting period ending March 31, 2011, the NOSC contractor reported a total of 4.5 FTE jobs funded for six quarters. NAVFAC MIDLANT did not know whether the contractor used labor hours from the daily reports or the payroll invoices to calculate the number of jobs reported to www.federalreporting.gov. A NAVFAC official stated that he would go to the contractor to determine which hours were used to calculate the number of jobs. Using OMB Memorandum M-10-08 formula¹⁰ for calculating the number of FTE jobs, we determined the number of FTE jobs that could have been reported using the labor hours in the

⁸A significant error is defined as a data field that is not reported accurately and where erroneous reporting may mislead or confuse the public.

⁹A funded job is defined as one in which the wages or salaries are either paid for with Recovery Act funding and the contractor must estimate the total number of jobs that were funded in the quarter.

¹⁰The FTE formula for calculating the estimated "Number of Jobs" consists of dividing the total number of hours worked and funded by Recovery Act in the quarter being reported by the number of hours in a full-time schedule for the quarter. A full-time schedule is 2,080 hours/year and the number of hours in a full-time schedule for a quarter is 520 (2,080 hours/4 quarters = 520).

contractor's daily production reports (Daily Reports)¹¹ and the certified payroll statements.¹² Based on the labor hours reported in the Daily Reports, we estimate the NOSC contractor could have reported about 13.8 FTE jobs. Using the total number of labor hours reported in the certified payroll statements, we estimate that the NOSC contractor could have reported about 5.8 FTE jobs.

A NAVFAC MIDLANT official stated that the contractor did not receive guidance on the methodology for calculating the number of FTE jobs funded each quarter, which could have resulted in the contractor underreporting jobs. Table 2 shows the contractor reported FTE jobs and the calculated number of FTE jobs based on the labor hours reported in the daily reports and the certified payroll statements for the six quarters. NAVFAC MIDLANT management should submit guidance to the contractor on how to calculate the number of Recovery Act-funded jobs.

Table 2. Number of FTE Jobs Reported for NOSC Project

Quarter (Q), Calendar Year (CY)	Total Number of Jobs Reported by the Contractor on FederalReporting.gov	Calculated Number of FTE Jobs based on Daily Reports	Calculated Number of FTE Jobs based on Certified Payroll Statements
Q-4, CY 2009	0.00	0.00	0.00
Q-1, CY 2010	0.00	2.17	1.82
Q-2, CY 2010	1.45	4.12	1.40
Q-3, CY 2010	1.00	3.35	1.02
Q-4, CY 2010	1.00	2.48	1.02
Q-1, CY 2011	1.00	1.70	0.53
Total Number of FTE Jobs	4.45	13.82	5.79

NAVFAC MIDLANT Incorrectly Considered Contractor's Data Valid

NAVFAC MIDLANT contract specialist (the designated agency official responsible for reviewing contractor's reports) considered the contractor-reported data valid. According to OMB Memorandum M-09-21, Federal agencies should establish controls for reviewing and validating contractor reports to ensure quality and accurate reporting. Specifically, this memorandum states that Federal agencies should develop procedures for reviewing contractor-reported data. Although Federal agencies are required to review reports for accuracy, completeness, and timely reporting, NAVFAC MIDLANT contract

¹¹The contractor is required to submit daily reports to the Government. This report provides documentation of the progress made on the project and the total number of labor hours worked by contractor employees each day at the project work site.

¹²NAVFAC MIDLANT provided copies of the certified weekly payroll report submitted by the contractor that provides a statement with respect to the hours worked and the wages paid each week.

specialist stated that she took the contractor's quarterly reports and the reporting of jobs on www.federalreporting.gov at face value. To ensure that the contractor submits quality and accurate data, NAVFAC MIDLANT should validate the contractor-reported data to detect and correct reporting errors.

Public Not Accurately Informed of Job Reporting

The public did not receive accurate information about the jobs reported for the NOSC modernization. By reporting 4.5 FTE jobs, the NOSC contractor underreported the number of FTE jobs. Using the labor hours reported in the daily report and the certified payroll statements, the NOSC contractor would have underreported jobs by 9.4 and 1.3, respectively. By underreporting the number of FTEs, NAVFAC MIDLANT officials adversely affected the quality of data reported to the public in Recovery.gov and the Recovery Act's goal—to preserve and create jobs. The contractor's use and benefits of recovery funds, such as creating and preserving jobs, should be reported clearly, accurately, and timely. Without effective controls to ensure the contractor-reported data was complete and accurate, the NOSC contractor underreported the number of Recovery Act-funded jobs for the project.

Management Comments on the Finding and Our Response

NAVFAC MIDLANT Comments

The Commanding Officer, NAVFAC MIDLANT (the Commander) did not agree with some of the underlying finding supporting the recommendation. The Commander stated that adequate quality assurance procedures were in place on this project and he had assigned a full time on-site quality assurance representative to monitor the contractor's work. He stated that the contractor met contract requirements for roof and pavement installation as verified by tests and inspections. According to the Commander, the roof drain test on September 27, 2011, was successful and the asphalt density test showed the compaction percentage met contract specifications. He further stated that the improper storage and operation of equipment caused the damage to the asphalt. The Commander also noted that they addressed the minor leaks that occurred after contract completion through the contract's warranty provisions. The Commander stated that the onsite QA representative and construction manager accepted and approved contract submittals and that some submittals did not require government approval. He added that not all of the 232 contract submittals were applicable to the contract. The Commander stated that the contractor forwarded 56 transmittals that contained 206 submittals of which the Government approved 165. Lastly, the Commander noted that the interior walls were not renovated under this contract, and the replacement doors were not Recovery Act funded.

Our Response

We determined that NAVFAC MIDLANT personnel did not prepare a QA plan, which would provide procedures for monitoring the contractor work. Although NAVFAC MIDLANT assigned a QA representative to monitor the work, we determined that the construction manager did not document his supervision of the work performed. FAR

Part 46.4, "Government Quality Assurance," requires the Government to prepare a QA plan to monitor the surveillance of the contractor's work. We disagreed that adequate QA procedures were in place since NAVFAC MIDLANT personnel did not comply with FAR Part 46.4 and prepare a QA plan. The construction manager did not provide documentation to validate that the contractor performed the required roof drain test. The asphalt density test conducted on January 14, 2011, showed that four areas of the utility parking lot failed to meet the specified asphalt compaction percentage of 92 percent. The contract specifications state that the asphalt must meet the specified compaction percentage. We discussed the failed tests with the construction manager, and he acknowledged the problems, but stated there was no record of a remedial action to address these areas. In response to a draft of this report, the Commander stated that, according to a North Carolina Department of Transportation requirement, no single compaction test could fall below 90 percent. However, NAVFAC MIDLANT officials did not provide documentation to support this statement. According to the North Carolina Department of Transportation guidance, a specific type of asphalt mix can be compacted to 90 percent. However, the guidance states that the type of asphalt mix used in the failed areas of the utility parking lot must be compacted to a minimum of 92 percent. During our site visit on August 18, 2011, NOSC building tenants explained that the asphalt had already begun to deteriorate and the asphalt laid might have been too soft for the equipment.

Although NAVFAC MIDLANT personnel stated that the contractor repaired the leaks through the warranty provisions of the contract, they could not provide documentation to support this action. The construction manager provided a copy of a register the contractor used to document the status of contract submittals. According to contract specifications, NAVFAC MIDLANT had to review and approve the submittals designated with a "G." The submittal register contained 232 submittals with a "G" designator. Of the 232 submittals, the register showed that NAVFAC MIDLANT approved 72, even though they only received 44. We brought these discrepancies to the construction manager's attention on several occasions. The construction manager could not explain why NAVFAC MIDLANT officials did not receive and approve all of the contract submittals or how they approved more submittals than they received. The construction manager also could not explain why the contractor did not deliver all required submittals. Lastly, the Commander stated replacement doors and interior walls were not Recovery Act funded. Our audit referenced the replacement doors and interior walls because they were included in the contract's scope of work.

Recommendations, Management Comments, and Our Response

We recommend the Commanding Officer, Naval Facilities Engineering Command Mid-Atlantic:

- 1. Repair all deteriorations and deficiencies in the recently renovated Navy Operational Support Center using contract warranties and oversee the repairs being performed.**

NAVFAC MIDLANT Comments

The Commanding Officer, NAVFAC MIDLANT, agreed with the recommendation, stating that the contract was completed on March 17, 2011, and a 1-year warranty on the contractor's work was in effect until March 17, 2012. The Commanding Officer indicated that the contractor corrected the deficiencies while the contract was in effect or during the warranty period, and the contract did not require the contractor to correct deficiencies that were not related to the contract.

Our Response

Comments from the Commanding Officer were responsive, and no further comments are required.

2. Prepare a quality assurance plan for future construction projects.

NAVFAC MIDLANT Comments

The Commanding Officer, NAVFAC MIDLANT, agreed with the recommendation, stating that NAVFAC MIDLANT will ensure quality assurance plans are prepared for future construction projects. He also stated that NAVFAC MIDLANT had assigned a full time, on site QA representative to monitor work on a continual basis and had procedures in place to report deficiencies.

Our Response

Comments from the Commanding Officer were responsive to our recommendation. Additionally, on page 14 in our response to management comments on the finding, we addressed the Commanding Officer comments that NAVFAC MIDLANT had assigned a QA representative to monitor work and had procedures in place to report deficiencies.

3. Review the performance of the contractor who performed the quality assurance services, and the construction manager who performed oversight duties to identify any corrective actions necessary regarding the improper installation of parking lot asphalt and roof.

NAVFAC MIDLANT Comments

The Commanding Officer, NAVFAC MIDLANT, neither agreed nor disagreed with the recommendation, stating that the performance of both the quality assurance contractor and the Government construction manager was reviewed and determined to be satisfactory. He stated that the asphalt density test provided on August 30, 2011, reflected that the asphalt installed under the contract met or exceeded contract requirements. The Commanding Officer also stated that the contractor performed the roof drain test on September 27, 2011, in the presence of the onsite QA representative. He stated that the test was successful.

Our Response

Comments from the Commanding Officer were partially responsive. According to the contract specifications, the asphalt must meet the specified compaction requirement. The

asphalt density test provided on August 30, 2011, showed that four areas of the utility parking lot did not meet the 92 percent compaction rate specified in the test. We communicated this issue to the construction manager, and he acknowledged that the reported compaction percentage for the four areas was lower than the specified 92 percent criteria. The construction manager also stated that the contractor did not report discrepancies to the Government's representative. He added,

we have no record of an instructed and detailed remedial action. Typical to these situations; another compaction or proof roll is done in that immediate area with additional asphalt used as supplemental material. This is then leveled out for the transition and discrepancy. However we have no documentation to verify that action.

As it relates to the roof drain test, the Commanding Officer did not ensure the roof drain test was performed in the presence of the contracting officer. According to section 3.5.4 of the contract specifications, the contractor performs the roof drain test in the presence of the contracting officer. The Commander stated that the QA representative was present during the roof drain test. However, we requested documentation on multiple occasions to support the Commander's assertion that the contractor performed a roof drain test and in the presence of the contracting officer. The construction manager did not provide the requested documentation. We request that the Commanding Officer reconsider his position on the performance of the QA contractor and the construction manager regarding the parking lot asphalt and roof, and provide additional comments on this final report by July 5, 2012.

4. Validate contractor-reported data to detect and correct significant reporting errors.

NAVFAC MIDLANT Comments

The Commanding Officer, NAVFAC MIDLANT, agreed with the recommendation, stating that the information the contractor reported was in error and the correct numbers should have been derived from hours reflected on the daily reports. Subsequent to receipt of the discussion draft report, the correct reporting methodology was reviewed with the contractor and the contractor was instructed to correct the numbers reported. The contractor requested a change to FederalReporting.gov; as of May 18, 2012, the Recovery Accountability and Transparency Board had not updated number of jobs reported.

Our Response

Comments from the Commanding Officer were responsive, and no further comments are required.

5. Provide internal guidance to the contractor on how to calculate the number of Recovery Act funded jobs.

NAVFAC MIDLANT Comments

The Commanding Officer, NAVFAC MIDLANT, agreed with the recommendation, stating that NAVFAC MIDLANT provided guidance to the contractor on calculating the correct number of Recovery Act funded jobs. The contractor requested a change to FederalReporting.gov; as of May 18, 2012, the Recovery Accountability and Transparency Board had not updated the number of jobs reported.

Our Response

Comments from the Commanding Officer were responsive, and no further comments are required.

6. Determine whether the contracting officer acted within the scope of his duties when he decided to not conduct market research and take administrative actions where necessary.

NAVFAC MIDLANT Comments

The Commanding Officer, NAVFAC MIDLANT, agreed with the recommendation, stating that NAVFAC MIDLANT's contracting officer did not perform adequate research for task order 0001 basic award. He noted, however, that they awarded this task order competitively with several offerors. The Commanding Officer further stated that NAVFAC requires market research for all new solicitations and their Business Management System process S.17-Market Research Including MOPAS Requirements provides guidance and information on how to conduct market research. To reemphasize this requirement the Commanding Officer indicated that on November 3, 2011, the Defense Acquisition University conducted an onsite Market Research training to approximately 50 of NAVFAC MIDLANT contracting officers and contract specialists.

Our Response

Comments from the Commanding Officer were responsive, and no further comments are required.

Appendix A. Scope and Methodology

We conducted this performance audit from April 2011 through March 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We selected one Recovery Act Facilities, Sustainment, Restoration, and Modernization project in Charlotte, North Carolina, for review. The NOSC project was valued at \$2.3 million.

To evaluate the effectiveness of NAVFAC MIDLANT controls over the contractor's performance and reporting of the NOSC modernization project, we interviewed personnel at the Naval Station Norfolk, Virginia PWD (Integrated Product Teams-PREAWARD) and Naval Air Base Oceana, Virginia Beach, Virginia (PWD, Facilities Engineering and Acquisition Division-POSTAWARD). We conducted a site visit in Charlotte, North Carolina, to review the repaired NOSC.

Contractor Reporting: We reviewed selected recipient reports filed by the contractor on www.federalreporting.gov. We verified contractor's reporting elements contained on www.recovery.gov for the fourth quarter of Calendar Year (CY) 2009, four quarters of CY 2010, and the first quarter of CY 2011 and compared the information with contract files and the Federal Procurement Data System. We also determined if NAVFAC officials were taking corrective action against the contractor who did not comply with FAR reporting requirements.

Project Execution: We determined whether the QA plans for the selected project specified work requiring surveillance and the method of surveillance. We also reviewed the contractor's daily QC reports, project milestones, contractor-submitted invoices, and inspection reports.

Small Business Oversight: We reviewed the contract files and obtained reports from North American Industry Classification System and the contractor's ORCA Web site. We verified and determined that the NOSC contractor met the size standard and therefore was qualified as a small business.

Use of Computer-Processed Data

We used computer-processed data to perform this audit. Specifically, we used project data posted on the Recovery Act Web site (www.federalreporting.gov) in meeting our audit objective. The Recovery Accountability and Transparency Board established the Web site, www.federalreporting.gov, as a nationwide data collection system for contractors to report data required by the Recovery Act. We tested the accuracy of the data by comparing the project data reported on the Recovery Act Web Site with the

documents in the contract files. We determined that the data were sufficiently reliable for the purpose of our audit.

Use of Technical Assistance

We did not use classical statistical sampling techniques that would permit generalizing results to the total population because there were too many potential variables with unknown parameters at the beginning of this analysis. The predictive analytic techniques used provided a basis for logical coverage not only of Recovery Act funding being expended, but also of types of projects and types of locations of public works projects managed by U.S. Army Corps of Engineers.

Prior Coverage

The Government Accountability Office (GAO), the DoD Inspector General (DoD IG), and the Military Departments have issued reports and memoranda discussing DoD projects funded by the Recovery Act. You can access unrestricted reports at <http://www.recovery.gov/accountability>.

Furthermore, GAO and the DoD IG have issued three reports specifically discussing Recovery Act issues pertaining to this report. Unrestricted GAO reports can be accessed at <http://www.gao.gov>. Unrestricted DoD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

GAO

GAO Report No. GAO-10-581, “Increasing the Public’s Understanding of What Funds Are Being Spent on and What Outcomes Are Expected,” May 27, 2010

DoD IG

DoD IG Report No. D-2011-052, “American Recovery and Reinvestment Act–DoD Data Quality Review Processes for the Period Ending December 31, 2009, Were Not Fully Implemented,” March 23, 2011

DoD IG Report No. D-2011-048, “American Recovery and Reinvestment Act–‘Facilities Energy Improvements’ and ‘Wind Turbine and Photovoltaic Panels’ at Fort Wainwright, Alaska,” March 7, 2011

Appendix B. Recovery Act Criteria and Guidance

The following list includes the primary Recovery Act criteria and guidance (notes appear at the end of the list):

- U.S. House of Representatives Conference Committee Report 111–16, “Making Supplemental Appropriations for Job Preservation and Creation, Infrastructure Investment, Energy Efficiency and Science, Assistance to the Unemployed, and State and Local Fiscal Stabilization, for the Fiscal Year Ending September 30, 2009, and for Other Purposes,” February 12, 2009
- Public Law 111-5, “American Recovery and Reinvestment Act of 2009,” February 17, 2009
- OMB Memorandum M-09-10, “Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” February 18, 2009
- OMB Bulletin No. 09-02, “Budget Execution of the American Recovery and Reinvestment Act of 2009 Appropriations,” February 25, 2009
- White House Memorandum, “Government Contracting,” March 4, 2009
- White House Memorandum, “Ensuring Responsible Spending of Recovery Act Funds,” March 20, 2009
- OMB Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009¹
- OMB Memorandum M-09-16, “Interim Guidance Regarding Communications With Registered Lobbyists About Recovery Act Funds,” April 7, 2009
- OMB Memorandum M-09-19, “Guidance on Data Submission under the Federal Funding Accountability and Transparency Act (FFATA),” June 1, 2009
- OMB Memorandum M-09-21, “Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009,” June 22, 2009²
- OMB Memorandum M-09-24, “Updated Guidance Regarding Communications with Registered Lobbyists About Recovery Act Funds,” July 24, 2009
- OMB Memorandum M-09-30, “Improving Recovery Act Recipient Reporting,” September 11, 2009

- OMB Office of Federal Procurement Policy, “Interim Guidance on Reviewing Contractor Reports on the Use of Recovery Act Funds in Accordance with FAR Clause 52.204-11,” September 30, 2009
- OMB Memorandum M-10-08, “Updated Guidance on the American Recovery and Reinvestment Act- Data Quality, Non–Reporting Recipients, Reporting of Job Estimates,” December 18, 2009
- OMB Memorandum M-10-14, “Updated Guidance on the American Recovery and Reinvestment Act,” March 22, 2010
- Presidential Memorandum “Combating Noncompliance with Recovery Act Reporting Requirements,” April 6, 2010
- OMB Memorandum M-10-17, “Holding Recipients Accountable for Reporting Compliance under the American Recovery and Reinvestment Act,” May 4, 2010
- OMB Memorandum M-10-34, “Updated Guidance on the American Recovery and Reinvestment Act,” September 24, 2010

Notes

¹ Document provides Government-wide guidance for carrying out programs and activities enacted in the American Recovery and Reinvestment Act of 2009. The guidance states that the President’s commitment is to ensure that public funds are expended responsibly and in a transparent manner to further job creation, economic recovery, and other purposes of the Recovery Act.

² Document provides Government-wide guidance for carrying out the reporting requirements included in section 1512 of the Recovery Act. The reports will be submitted by the contractors beginning in October 2009 and will contain detailed information on the projects and activities funded by the Recovery Act.

Appendix C. NOSC Contract Submittals Received and Approved

Specification Section	Specification Description	Submittals Requiring Government Approval	Submittals Delivered by the Contractor	Submittals Approved by the Government
01 33 00	Submittal Register	1	1	1
01 35 26	Accident Prevention Plan	3	2	2
01 35 40.00 20	Environmental Protection Plan	1	1	1
01 45 02	Construction Quality Control Plan	5	1	2
01 50 00	Construction Site Plan	5	0	0
01 57 19.00 20	Preconstruction Survey	7	1	1
01 75 00	Verification of Prior Experience	21	1	1
01 78 00	Certification of EPA ¹ Designated Items	3	0	0
02 81 00	On-site Hazardous Waste Management	7	0	0
02 84 16	Qualifications of CIH ²	5	0	0
06 10 00	Modifications of Structural Members	3	0	0
08 11 13	Shop Drawings – Steel Doors and Frames	4	2	2
08 14 00	Shop Drawings – Wood Doors	2	2	2
09 90 00	Product Data - Coating	4	1	1
10 22 26.13	Accordion Folding Partition Layouts	4	0	2
10 26 13	Corner Guards	2	0	0
10 28 13	Product Data - Finishes	4	1	1
13 34 19	Manufacturer's Qualification	16	3	3
13 48 00	Shop Drawings - Bracing	2	0	0
22 00 00	Plumbing System	12	7	8
23 00 00	Fire Dampers	9	0	0
23 05 93	Records of Existing Conditions	34	5	5
23 08 00.00 10	Commissioning Plan	6	2	5
23 08 00.00 20	DALT ³ and TAB ⁴ Work Execution Schedule	13	0	0
23 09 23.13 20	Control System Drawings Title Sheet	28	0	21
23 09 23	Start-Up and Start-Up Testing Report	1	0	0
26 05 48.00 10	Lighting Fixtures in Buildings	3	0	0
26 20 00	Panelboards	10	2	2
26 51 00	Fluorescent Lighting Fixtures	8	6	6
26 56 00	Luminaire Drawings	3	3	3
32 16 15	Concrete Paving Block	1	0	0
32 93 00	Mulch	1	0	0
34 71 13.19	Installation	3	3	3
01 35 26	Preconstruction Submittals	1	0	0

Appendix C. NOSC Contract Submittals Received and Approved (cont.)

Specification Section	Specification Description	Submittals Requiring Government Approval	Submittals Delivered by the Contractor	Submittals Approved by the Government
Total		232	44	72
Number of Submittals Not Delivered by the Contractor			188	
Number of Submittals Not Approved by the Government				160

¹U.S. Environmental Protection Agency (EPA)

²Certified Industrial Hygienist (CIH)

³Duct Air Leakage Test (DALT)

⁴Testing, Adjusting, and Balancing (TAB)

⁵The contractor delivered 44 and NAVFAC approved 72 of the 232 contract submittals. We requested that NAVFAC MIDLANT officials provide an explanation as to why the Government approved more submittals than the contractor submitted. However, NAVFAC MIDLANT did not provide a response.

Appendix D. Recovery Act Reporting

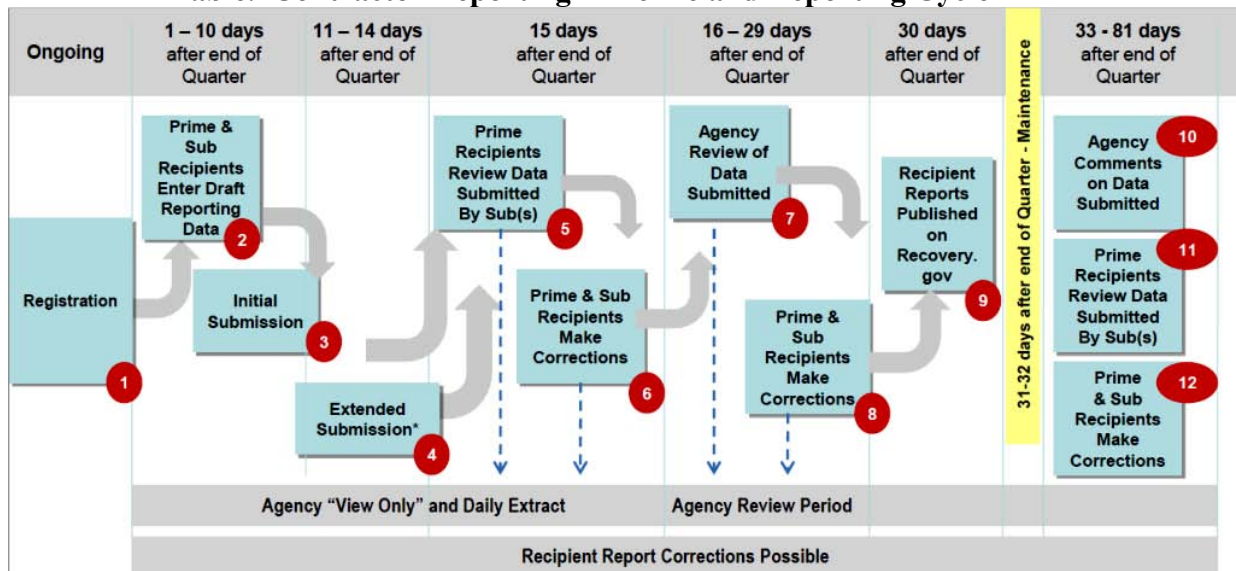
The Recovery Act defines a contractor as any entity that receives Recovery Act funds directly from the Federal Government through contracts, grants, or loans. Prime contractors of recovery funds are required, within 10 days after the end of each calendar quarter, to report:

- the total amount of funds received, expended, or obligated;
- a description of projects or activities; and
- estimated number of jobs created or retained.

The Recovery Accountability and Transparency Board established a nationwide data collection system at www.federalreporting.gov for contractors to report information required by the Recovery Act to provide more accountability and transparency in the use of Recovery Act funds. The Recovery Accountability and Transparency Board also established a Web site to make reported information available for the public not later than 30 days after the end of each quarter on www.recovery.gov.

OMB Memorandum M-09-21 provides information on key activities and timelines for contractors submitting quarterly reports and Federal agencies reviewing the data in the reports. The memorandum requires contractors of Recovery Act funds and reviewing Federal agencies to register at www.federalreporting.gov before submitting or reviewing contractor reports. The reporting and review period should be completed within 30 days. The following table depicts the contractor reporting time and key reporting activities.

Table. Contractor Reporting Timeline and Reporting Cycle



Source: FederalReporting.gov

OMB Memorandum M-10-14, "Updated Guidance on the American Recovery and Reinvestment Act," March 22, 2010, provides guidance to Federal agencies for continuous improvement in the quality of data reported under section 1512 of the

Recovery Act. This memorandum states that the Recovery Accountability and Transparency Board initiated a “continuous correction” period in January 2010 which modifies the process for correcting data in www.federalreporting.gov. Previously, data in www.federalreporting.gov for a given reporting quarter was “locked” and not correctable once the reporting period for that quarter closed. With a “continuous corrections” period, contractors can correct reported data after that reporting quarter has ended and after the data is published on www.federalreporting.gov. This memorandum highlights steps Federal agencies must take to review data quality of contractor’s reports during the continuous period.

Department of the Navy Comments



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND
1322 PATTERSON AVENUE, SE SUITE 1000
WASHINGTON NAVY YARD DC 20374-5065

5041
Ser 09IG/009
13 Apr 12

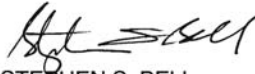
SECOND ENDORSEMENT on MIDLANT ltr 5041 Code 09IG of 6 Apr 12

From: Commander, Naval Facilities Engineering Command
To: Department of Defense, Office of Inspector General
Via: Assistant Secretary of the Navy (Energy, Installations, and Environment)

Subj: AMERICAN RECOVERY AND REINVESTMENT ACT - INEFFECTIVE
CONTROLS OVER THE CONTRACTOR'S PERFORMANCE AND
REPORTING FOR MODERNIZATION OF WHOLE NAVY OPERATIONAL
SUPPORT CENTER IN CHARLOTTE, NORTH CAROLINA (PROJECT NO.
D2011-DOOOLH-0186.000)

Encl: (1) NAVFAC LANT 1tr 5041 Ser 09IG/00167 of 11 Apr 12

1. Forwarded; NAVFAC HQ concurs with enclosure (1).
2. The NAVFAC point of contact is [REDACTED] Chief Command Evaluator,
at [REDACTED] or email: [REDACTED].


STEPHEN S. BELL
Inspector General

Copy to:
NAVFAC ML
NAVFAC LANT



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND, ATLANTIC
6506 HAMPTON BLVD
NORFOLK, VA 23508-1278

IN REPLY REFER TO:

5041
Ser 09IG/00167
11 APR 12

FIRST ENDORSEMENT on NAVFAC MIDLANT ltr 5041 Code 09IG
of 6 Apr 2012

From: Commander, Naval Facilities Engineering Command, Atlantic
To: Department of Defense, Office of Inspector General
Via: (1) Naval Facilities Engineering Command
(2) Assistant Secretary of the Navy (Energy, Installations
and Environment)

Subj: AMERICAN RECOVERY AND REINVESTMENT ACT - INEFFECTIVE
CONTROLS OVER THE CONTRACTOR'S PERFORMANCE AND REPORTING
FOR MODERNIZATION OF WHOLE NAVY OPERATIONAL SUPPORT CENTER
IN CHARLOTTE, NORTH CAROLINA (PROJECT NO. D2011-D000LH-
0186.000)

1. Based on the Completion Report prepared by Naval
Facilities Engineering Command, Mid-Atlantic, Command
Inspector General, we concur that all six recommendations are
closed.

2. For any questions concerning this matter, please contact
[REDACTED], Command Inspector General, at [REDACTED]
[REDACTED], or e-mail: [REDACTED].

R. J. GIBBS
Vice Commander

Copy to:
NAVFAC MIDLANT (Code 00, IG)



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND, MID-ATLANTIC
9742 MARYLAND AVENUE
NORFOLK, VA 23511-3095

5041
09IG
6 APR 2012

From: Commanding Officer, Naval Facilities Engineering Command,
Mid-Atlantic
To: Department of Defense, Office of Inspector General
Via: (1) Naval Facilities Engineering Command, Atlantic
(2) Naval Facilities Engineering Command
(3) Assistant Secretary of the Navy (Energy, Installations and
Environment)

Subj: AMERICAN RECOVERY AND REINVESTMENT ACT - INEFFECTIVE CONTROLS
OVER THE CONTRACTOR'S PERFORMANCE AND REPORTING FOR
MODERNIZATION OF WHOLE NAVY OPERATIONAL SUPPORT CENTER IN
CHARLOTTE, NORTH CAROLINA (PROJECT NO. D2011-D000LH-0186.000)

Ref: (a) DODIG memo of 21 Mar 2012

1. Naval Facilities Engineering Command, Mid-Atlantic (NAVFAC MIDLANT) has carefully considered the Department of Defense, Office of Inspector General's (DODIG) recommendations set forth in reference (a). While we intend to implement the recommendations contained in the report, we feel it is important to point out that we do not agree with many of the underlying findings supporting the recommendations. The specific areas where we disagree with the report are as follows:

a. The report states on page four that, "Without a QA plan, NAVFAC MIDLANT officials did not have procedures in place to provide adequate oversight of the newly modernized NOSC building, which showed deterioration in the recently renovated areas." Adequate quality assurance procedures were in place on this project via the contract itself. A full time, on site Quality Assurance (QA) representative was assigned to monitor work on a continual basis. Procedures were in place to report deficiencies and to correct items related to the contractor's work;

b. The report states on page five that, "A QA plan would have required the construction manager to validate the verification and acceptance of contract specifications and the approval of contract submittals." The onsite QA representative and Construction Manager performed these functions. Contract submittals were accepted and approved. If rejected by the government the submittals were resubmitted until approved;

c. The report stated on page five that, "NAVFAC MIDLANT officials did not provide adequate oversight to ensure the contractor met the contract verification and acceptance specifications for the roof and the parking lot pavement. The contract required the contractor to complete a roof drain test in the presence of the contracting officer

Subj: AMERICAN RECOVERY AND REINVESTMENT ACT - INEFFECTIVE CONTROLS
OVER THE CONTRACTOR'S PERFORMANCE AND REPORTING FOR
MODERNIZATION OF WHOLE NAVY OPERATIONAL SUPPORT CENTER IN
CHARLOTTE, NORTH CAROLINA (PROJECT NO. D2011-D000LH-0186.000)

before Government acceptance." The contractor met contract requirements for roof and pavement installation as verified by tests and inspections. The roof drain test was performed on 27 September 2011 in the presence of the onsite QA representative. The test was successful as indicated by no leakage;

d. The report stated on page six that, "Building tenants reported the building leaked during heavy rains." Leaks occurred during construction. However, they were identified and corrected by the contractor. There were minor leaks that occurred after contract completion. These were addressed through the warranty provisions of the contract and the contractor responded promptly to correct leaks. As with other projects, the roof has a 20-year warranty to provide for long-term protection of the facility;

e. The report stated on page six that, "The asphalt density tests that the contractor performed on 14 January 2011, indicated the utility parking lot did not meet the specified compaction percentage in four areas. NAVFAC MIDLANT Public Works Department (PWD) officials at Naval Air Station (NAS) Oceana, Virginia, did not ensure the contractor corrected the failed test areas of the parking lot as required by the contract specifications." Four of 97 reported locations were reported to be at 91% rather than the 92% design criteria. North Carolina Department of Transportation (NCDOT) states that the daily average compaction must meet the compaction percent specified and that no single test can fall below 90%. Ninety-two percent was a baseline measurement and is consistent with NCDOT criteria. Additionally, the material in question still passed the NCDOT criteria as the average of the ten reports for that day was above 92%;

f. The report stated on page seven that, "NAVFAC MIDLANT officials did not receive 188 of the 232 contract submittals. Also, NAVFAC MIDLANT officials did not approve 160 of the 232 submittals... The contractor delivered 44 and NAVFAC approved 72 of the 232 contract submittals." The report identified 232 submittals that required government approval. However, some submittals forwarded did not require government approval and not all of the 232 sections were applicable to the contract. The government did not approve more submittals than it received, as this would not have been possible. The contractor forwarded 56 transmittals that contained 206 submittals of which the government approved 165. Submittals which were forwarded to the government but not approved per se included manufacturer's operations and maintenance manuals, training plans, warranties, hardware schedules, reports and other product data;

Subj: AMERICAN RECOVERY AND REINVESTMENT ACT - INEFFECTIVE CONTROLS
OVER THE CONTRACTOR'S PERFORMANCE AND REPORTING FOR
MODERNIZATION OF WHOLE NAVY OPERATIONAL SUPPORT CENTER IN
CHARLOTTE, NORTH CAROLINA (PROJECT NO. D2011-D000LH-0186.000)

g. The report states on page eight and nine that, "The newly modernized NOSC showed deterioration in areas recently renovated and there was a risk that additional deteriorations might occur. Specifically, the newly renovated areas experienced the following problems: leaks in various locations, deteriorating asphalt in various areas of the parking lot, and renovated walls that could not support newly installed doors." During roof construction leaks occurred. These were addressed by the contractor. There were minor leaks that occurred after acceptance. These were addressed through the warranty provisions of the contract and the contractor responded promptly to correct these areas. Asphalt damage observed and reported on page 9 of the report was caused by improper storage and operation of equipment. The NOSC is provided with a large concrete area specifically for storage of large vehicles and trailers. Any damage that occurred due to improper storage or operation is not the responsibility of the contractor and will be addressed by subsequent repair work to the facility. Interiors walls were not renovated under this contract and the replacement doors installed into existing walls by the contractor were not part of the ARRA project nor funded by ARRA funds.

2. The following comments are provided in response to the DODIG's recommendations.

a. Recommendation 1. That Commanding Officer, Naval Facilities Engineering Command, Mid-Atlantic repair all deteriorations and deficiencies in the recently renovated Navy Operational Support Center using contract warranties and oversee the repairs being performed.

(1) Response. Concur. The contract was completed (beneficial occupancy) on 17 March 2011. The one-year warranty on the contractor's work was in effect until 17 March 2012. Deficiencies were corrected while the contract was in effect or during the warranty period. The contractor was not required to correct deficiencies that were not related to his contract.

b. Recommendation 2. That Commanding Officer, Naval Facilities Engineering Command, Mid-Atlantic prepares a quality assurance plan for future construction projects.

(1) Response. Concur. NAVFAC MIDLANT will ensure that quality assurance plans are prepared for all future construction projects. However, adequate quality assurance procedures were in place on this project via the contract itself. A full time, on site QA representative was assigned to monitor work on a continual basis. Procedures were in place to report deficiencies and to correct items

Subj: AMERICAN RECOVERY AND REINVESTMENT ACT - INEFFECTIVE CONTROLS
OVER THE CONTRACTOR'S PERFORMANCE AND REPORTING FOR
MODERNIZATION OF WHOLE NAVY OPERATIONAL SUPPORT CENTER IN
CHARLOTTE, NORTH CAROLINA (PROJECT NO. D2011-D000LH-0186.000)

related to the contractor's work. Contract Specification Section 01 45 02, NAVFAC QUALITY CONTROL, provided detailed instruction on submittals as well as quality control program requirements, organization, plan, meetings, inspections, testing, training, and documentation. With regard to the submittal issue addressed on page 7 of the report, the government did not approve more submittals than it received. The contractor forwarded 56 transmittals that contained 206 submittals of which the government approved 165. Submittals forwarded but not approved included data that did not require government approval.

c. **Recommendation 3.** That Commanding Officer, Naval Facilities Engineering Command, Mid-Atlantic review the performance of the contractor who performed the quality assurance services, and the construction manager who performed oversight duties to identify any corrective actions necessary regarding the improper installation of parking lot asphalt and roof.

(1) **Response.** The performance of both the quality assurance contractor and the government construction manager was reviewed and their performance was determined to be satisfactory. Asphalt damage identified in the report was caused by improper storage and operation of equipment by the NOSC. It did not result from improper installation of the asphalt by the contractor. The asphalt installed under the contract met or exceeded contract requirements. Asphalt density tests supporting our position were shared with the inspection team in an e-mail on 30 August 2011, which also discussed repairs made after the initial paving as well as test and compaction results from the project. It should be noted that the NOSC was provided a large concrete area specifically designed for the storage of large vehicles or trailers. The roof drain test referenced on page 5 of the report was performed on 27 September 2011 in the presence of the onsite QA representative. The test was successful as indicated by no leakage. Leakage that occurred during construction was corrected promptly by the contractor. The 20-year roof manufacturer's warranty provides additional coverage for roof leaks that occur after beneficial occupancy. This warranty has been used since construction ended and the contractor has responded promptly to repair leaks.

d. **Recommendation 4.** That Commanding Officer, Naval Facilities Engineering Command, Mid-Atlantic validates contractor-reported data to detect and correct significant reporting errors.

(1) **Response.** Concur. The information reported by the contractor was in error. The correct numbers should have derived from hours reflected on the daily reports as identified in Table 2 of

Subj: AMERICAN RECOVERY AND REINVESTMENT ACT - INEFFECTIVE CONTROLS
OVER THE CONTRACTOR'S PERFORMANCE AND REPORTING FOR
MODERNIZATION OF WHOLE NAVY OPERATIONAL SUPPORT CENTER IN
CHARLOTTE, NORTH CAROLINA (PROJECT NO. D2011-D000LH-0186.000)

reference (a). The contractor only reported data on a portion of personnel hired under the contract. Subsequent to receipt of the discussion draft report the correct reporting methodology was reviewed with the contractor and the contractor was instructed to correct the numbers reported. The contractor requested a change via federalreporting.com, but as of 3 April 2012, the number of jobs reported had not been updated.

e. Recommendation 5. That Commanding Officer, Naval Facilities Engineering Command, Mid-Atlantic provides internal guidance to the contractor on how to calculate the number of Recovery Act funded jobs.

(1) Response. Concur. Naval Facilities Engineering Command, Mid-Atlantic provided guidance to the contractor on calculating the correct number of Recovery Act funded jobs. The contractor requested a change via federalreporting.com, but as of 3 April 2012, the number of jobs reported had not been updated.

f. Recommendation 6. That Commanding Officer, Naval Facilities Engineering Command, Mid-Atlantic determine whether the contracting officer acted within the scope of his duties when he decided to not conduct market research and take administrative actions where necessary.

(1) Response. Concur. NAVFAC Mid-Atlantic's contracting officer did not perform adequate research for Task Order 0001 on the basic award. Note, however, this task order was awarded competitively with several offerors. NAVFAC requires market research for all new solicitations. Our Business Management System (BMS) process S.17-Market Research Including MOPAS Requirements provides guidance and information regarding how to properly conduct market research. In order to re-emphasize this requirement, The Defense Acquisition University (DAU) conducted on-site Market Research training on 3 November 2011 for NAVFAC Mid-Atlantic. This training was given to approximately fifty (50) of our Contracting Officers and Contract Specialists.

2. [REDACTED] is my point of contact for this matter. He may be reached by phone at [REDACTED] or e-mail at [REDACTED].


P. J. ODENTHAL
By direction



Inspector General Department of Defense

